

Appl. No. 10/502,059
Response dated: March 17, 2008
Reply to OA of: September 17, 2007

REMARKS

Applicants have amended the claims to more particularly define the invention taking into consideration the outstanding Official Action. The objection to the specification has been noted. In this regard, it is most respectfully requested to hold in abeyance the grammatical corrections and misspellings which would necessitate the filing of a substitute specification. These errors are minor in nature as noted on page 4 of the Official Action, the specification is understood without the corrections and no claims have been presently allowed.

The claims have been amended to more particularly define the invention by restricting the claimed subject matter due to the specified pathogens and the motive and administration as fully supported by the specification as originally filed, see especially claim 32. This limitation of claim 19 from claim 32 also obviates the rejections not including claim 32. In addition, the mode of administration whereby said cycloglycans are administered in the form of a fluid or solid food composition, a dietetic composition or a pharmaceutical composition to be administered orally or per os has been added to claim 19 to further distinguish over the prior art.

The claims are said to be rejected under 35 U.S.C. 112, first paragraph because the specification is said not be enabling. However, there is no identification of any particular claims rejected and therefore, it is understood that the rejection applies to all the claims in the application. However, the claims have been amended so that the method is more limited as are the pathogens treated and are not as broadly interpreted in the Official Action. In this regard, Applicants note that one of the criteria's with respect to the level of skill of one of ordinary skill in the art and the nature of experimentation needed. This is especially true in view of the prior art cited in the Official Action which is reflective of the level of one of ordinary skill in the art to which the invention pertains. It is believed that the claims as now amended overcome this aspect of the rejection. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Applicants wish to direct the Examiner's attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

Appl. No. 10/502,059
Response dated: March 17, 2008
Reply to OA of: September 17, 2007

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Akzo N.V. v. International Trade Comm'n, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986) (Claims to a process for making aramid fibers using a 98% solution of sulfuric acid were not anticipated by a reference which disclosed using sulfuric acid solution but which did not disclose using a 98% concentrated sulfuric acid solution.).

The rejection of claims 19-32 and 35 under 35 U.S.C. 102(b) as being anticipated by Anand et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims. Note that claim 19 now specifies both the specific pathogens and mode of administration.

The rejection of claims 19-25, 31 and 32 under 35 U.S.C. 102(b) as being anticipated by Roth et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims. Again note that claim 19 now specifies both the specific pathogens and mode of administration.

The rejection of claims 19-29 and 31 under 35 U.S.C. 102(b) as being anticipated by Sanchez et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims. Claim 32 is not included in this rejection. Since the limitation from claim 32 has been added to claim 19, this rejection has been obviated. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Similarly, the rejection of claims 19-29, 31 and 32 under 35 U.S.C. 102(b) as being anticipated by Nelson has also been carefully considered but is most respectfully traversed in view of the amendments to the claims. Nelson relates to a dental rinse and not the method as presently claimed. All of the limitations of the claimed subject matter

Appl. No. 10/502,059
Response dated: March 17, 2008
Reply to OA of: September 17, 2007

is not found in this reference. Accordingly, it is most respectfully requested that this rejection be withdrawn.

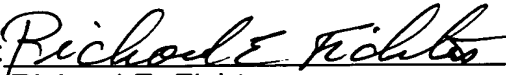
The rejection of claims 19-25, 27-30, 32 and 35 under 35 U.S.C. 102(b) as being anticipated by Bernstein has been carefully considered but is most respectfully traversed in view of the amendments to the claims. Bernstein relates to a method of inhibiting the complement system in a body fluid containing complement with cyclodextrin sulfate salts and in no way anticipates the presently claimed invention as now amended. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 19-21, 23-25, 28-31 and 35 under 35 U.S.C. 102(b) as being anticipated by Castro Hermida et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the above comments. Accordingly, it is most respectfully requested that this rejection be withdrawn.

It is noted that there is no obviousness rejection and all the claims have been rejected on the grounds of anticipation. However, it is most respectfully submitted that the amendments to the claims obviate these rejections and place the application in condition for allowance.

In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,
BACON & THOMAS, PLLC

By: 
Richard E. Fichter
Registration No. 26,382

625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080
REF/cjw
A01.wpd
March 17, 2008